

Message Text

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ACTION EA-10

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CINCPAC

C O N F I D E N T I A L BANGKOK 16400

E.O 11652: GDS

TAGS: PGOV, PINT, TH

SUBJECT: CONSTITUTIONAL TRANSITION

CINCPAC FOR POLAD

REF: BANGKOK 16047

SUMMARY: THAILAND HAS A NEW CONSTITUTION, ITS NINTH. THERE HAVE APPEARED, HOWEVER, A SERIES OF LEGAL QUESTIONS ABOUT THE TRANSITION PROVISIONS AND THE POWERS OF THE HOLDOVER NATIONAL LEGISLATIVE ASSEMBLY (NLA) BECAUSE NEW ENACTING LEGISLATION IS NECESSARY TO BRING THE LAWS OF THE LAND IN LINE WITH THE CONSTITUTION. NO ONE IS CERTAIN WHETHER THE PRESENT APPOINTED NLA HAS THE AUTHORITY, OR WILLINGNESS, TO LEGISLATE FULLY UNDER THE NEW CONSTITUTUION IN THE NAME OF THE FUTURE ELECTED NLA. THE NLA SELECTED A NEW LEADERSHIP ON OCTOBER 11 WHICH WILL GUIDE IT THROUGH THE TRANSITION PERIOD IN THE ELECTIONS. MEANWHILE, THE SENSE OF DISILLUSIONMENT AT PRIME MINISTER SANYA EBBED SOMEWHAT DURING HIS WEEK AWAY FROM BNGKOK. END SUMMARY.

1. WHILE THE KING SIGNED THE THREE PARCHMENT COPIES OF THE CONSTITUTION AT NOON ON OCTOBER 7, IT DID NOT TAKE EFFECT UNTIL PU-
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BLISHED IN THE GOVERNMENT GAZETTE THAT EVENING. SINCE THE NEW

CONSTITUTION HAS SIGNIFICANT DIFFERENCES FROM PREVIOUS DOCUMENTS, OLD LAWS WERE SUDDENLY OUT-OF-DATE AND IN NEED OF REVISION. FURTHERMORE, NEW ENACTING LEGISLATION IS REQUIRED TO IMPLEMENT THE INNOVATIONS IN THE NEW CONSTITUTION.

2. THE BANGKOK METROPOLITAN GOVERNMENT, FOR EXAMPLE, MUST ENACT NEW LEGISLATION SO THAT ITS STRUCTURE CONFORMS TO THE LOCAL GOVERNMENT REGULATIONS IN THE CONSTITUTION. THE CABINET WILL HAVE TO OBTAIN NLA PERMISSION IF THE GOVERNMENT WANTS TO CONTINUE THE MARTIAL LAW THAT HAS BEEN IN EFFECT FOR YEARS. ALL THE SECRETARIES TO CABINET MINISTERS HAVE HAD TO RESIGN THEIR POSITIONS, BECAUSE ARTICLE 200 OF THE CONSTITUTION FORBIDS GOVERNMENT OFFICIALS FROM HOLDING POLITICAL APPOINTMENTS.

3. THE NLA (SAPHA NITTIPANYAT) CAN ACT AS PARLIAMENT (SAPHA RATSADON) ACCORDING TO THE TRANSITORY CLAUSES OF THE CONSTITUTION (REFTEL).. UNSURE OF ITS NEW STANDING, HOWEVER, THE NLA DEVOTED MUCH OF ITS OCTOBER 10 SESSION TO DISCUSSING THE PROS AND CONS OF SUCH A MOVE. THE NLA'S MOVE, A MOVE WHICH BOTH THE STUDENT ACTIVISTS AND THE KING FAVOR. WHILE THE NLA DECIDED THAT IT HAD THE AUTHORITY TO AMEND, MANY MEMBERS HAVE STRONG RESERVATIONS ABOUT EXERCISING THAT AUTHORITY. FOR THE NEXT FEW SESSIONS, THE APPOINTED NLA WILL CAUTIOUSLY DETERMINE WHICH PEROGATIVES OF THE ELECTED PARLIAMENT IT CHOOSES TO EXERCISE. SINCE THE CONSTITUTION CALLS FOR BICAMERAL APPROVAL OF CERTAIN PROCEDURES, AND THE PRESENT NLA IS UNICAMERAL, INTERNAL RESISTANCE TO EXERCISING TOO MUCH INITIATIVE IS STRENGTHENED.

4. M.R. KHUKRIT PRAMOT RESIGNED HIS NLA SPEAKERSHIP TO BEGIN HIS PARLIAMENTARY CAMPAIGN AND THE NLA SELECTED PRAPHAT UAI-CHAI, THE FORMER DEPUTY SPEAKER, AS THE NEW SPEAKER ON OCTOBER 11. MODERATE AND CLOSE TO THE KING, PRAPHAT HAS ALREADY CHAIRED A FEW SESSIONS BUT HIS SENSE OF ACTIVISM IS UNKNOWN. BUNCHANA ATTAKON, FORMERLY AMBASSADOR TO WASHINGTON AND MINISTER OF ECONOMIC AFFAIRS, IS THE NEW DEPUTY SPEAKER. HE MAY HAVE POLITICAL ASPIRATIONS FOR THE COMING ELECTIONS. THIS CHANGE IN NLA LEADERSHIP WILL BE IMPORTANT IN DETERMINING HOW THE NLA MOVES DURING THE TRANSITION PERIOD.

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5. DISCUSSIONS OF THE LEGAL AUTHORITY OF THE TRANSITIONAL NLA UNDER THE 1974 CONSTITUTION, AND SANYA'S WEEK ABSENCE FROM BANGKOK, HAVE ECLIPSED FOR THE MOMENT WIDESPREAD FEELINGS OF DISSATISFACTION WITH PRIME MINISTER SANYA. IN RECENT WEEKS, MORE QUARTERS OF THE SOCIETY HAVE EXPRESSED DISAPPOINTMENT IN THE PRIME MINISTER. THE NLA PASSAGE OF THE CONSTITUTION IN THE THIRD READING IS RELATED TO A BACKLASH OVER SANYA'S COMPULSIVE CONCESSIONS, PARTICULARLY TO THE STUDENT ACTIVISTS.

WHILE THERE MAY NOT BE A CONSENSUS ON MANY POLITICAL ISSUES IN THAILAND THERE IS BROAD SUPPORT FOR CONSTITUTIONALISM AND FOR QUICKLY MOVING ON TO AN ELECTED GOVERNMENT. WHEN SANYA APPEARED TO DISAPPROVE OF THE CONSTITUTION HIS GOVERNMENT HAD WORKED ON FOR TEN MONTHS, DISILLUSIONMENT WITH SANYA FLOWED INTO MANY QUARTERS. SANYA'S COMPROMISE, CARETAKER ATTITUDE HAS STIMULATED EVEN HIS DEFENDERS TO FEEL THAT HE NEEDS PRODDING, THUS INCREASING PRESSURES ON HIM.

6. COMMENT: DURING THE MONTHS UNTIL ELECTIONS, WORK WILL PROGRESS ON REARRANGING THE THAI LEGAL STRUCTURE TO CONFORM WITH THE PROVISIONS OF THE NEW CONSTITUTION. THE NLA WILL BE UNDER PRESSURE TO BE THE LEGITIMIZER OF THIS PROCESS, A TASK IT SHOULD BE ABLE TO PERFORM WITH RELEVANT EASE. THIS MAY, HOWEVER, SET UP PRESSURES TO USE THE TRANSITORY NLA TO AMEND THE CONSTITUTION, A LEGISLATIVE ACT OF SUFFICIENTLY DIFFERENT MAGNITUDE THAT THE NLA MAY WANT TO LEAVE THIS RESPONSIBILITY TO THE ELECTED PARLIAMENT. THE KING'S SUBTLE CRITICISM OF THE CONSTITUTION (BANGKOK 16119), HOWEVER, ADDS TO THE NLA'S DISCOMFITURE, AND THE GENERAL POLITICAL UNCERTAINTIES ACCUMULATING DURING THE TRANSITION TO ELECTIONS.

6. THE GOVERNMENT SURVIVED FOR THE WEEK THAT DEPUTY PRIME MINISTER PRAKOP HUTASING WAS IN CHARGE, SO SANYA MAY BE MORE RELAXED ABOUT HIS DUTIES. NEVERTHELESS, HIS ACTIONS HAVE BUILT UP THE IMAGE OF THE ELECTIONS AS THE SOLUTIONS TO THE NATION'S PROBLEMS. THIS BACKLASH TO SANYA'S TIMIDITY MAY, HOWEVER, BE GIVING RISE TO UNREALISTIC EXPECTATIONS OF STRONG DECISIONMAKING FROM THE ELECTED PARLIAMENT.
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